REMARKS

This is a full and timely response to the outstanding final Office Action mailed July 13, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claim 3 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

The Examiner has maintained the rejection of claim 3 under 35 U.S.C. § 112, second paragraph, for inclusion of the term "approximately". Applicant maintains its position that the rejection is improper and incorporates the arguments presented in the previous Response. As indicated in that response, the Federal Circuit has acknowledged that relative terms such as "approximately" are ubiquitous in patent claims. As evidence of that ubiquity, Applicant notes that, at the time this Response was prepared, the U.S. Patent and Trademark Office had already issued this year *5120 patents* that contain claims that include the term "approximately". Clearly, that term was not considered indefinite by the examiners who issued those patents.

In view of the above, it is respectfully asserted that the claims define the invention in the manner required by 35 U.S.C. § 112. Accordingly, Applicant respectfully requests that the rejections to these claims be withdrawn.

II. Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-12, 21-24, 26, 27, and 29-36 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Laube* (U.S. Pat. No. 4,653,086). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the Laube reference. Applicant discusses the Laube reference and Applicant's claims in the following.

A. The Laube Disclosure

Laube discloses a communication terminal that processes both voice and graphical information. *Laube*, Abstract. As described by Laube, the communication terminal 10 includes a telephone set 14, which can be used as a conventional telephone, and a touch sensitive display screen 32, which can be used to generate graphical information to be simultaneously transmitted with voice information over a subscriber line. *Laube*, column 3, lines 19-29; column 4, lines 39-44; and column 5, lines 45-52.

B. Applicant's Claims

As is noted above, Laube fails to teach aspects of Applicant's claims. Applicant discusses some of those claims in the following.

1. Claims 1-5

Applicant's independent claim 1 provides as follows (emphasis added):

> 1. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> buffering the graphical data in memory; and
>
> *transmitting portions of the graphical data* over the communication line to a remote device *at a controlled rate that does not exceed a predetermined maximum data transfer rate at which a bandwidth of the communication line would be exceeded.*

Regarding claim 1, Laube does not teach "transmitting portions" of graphical data "at a controlled rate that does not exceed a predetermined maximum data transfer rate at which a bandwidth of the communication line would be exceeded". Applicant notes that column 5, lines 47-52 of the Laube reference, which were relied upon in the Final Office Action, do not teach transmitting any data "at a controlled rate". Instead, that portion of the Laube reference merely states that voice and graphical information are transmitted "within a limited bandwidth." *Laube*, column 5, lines 50-51. Laube's reference to "limited bandwidth" is a reference to the *frequency band* used to transmit the voice and graphical information, not the *rate* at which graphical data is transmitted.

We know this because Laube states that a "frequency multiplexer" is used to so transmit the voice and graphical information. *Laube*, column 5, lines 49-51.

Applicant further notes that column 7, lines 1-10 of the Laube reference, which were also relied upon in the Final Office Action, do not teach transmitting any data "at a controlled rate". Instead, that portion of the Laube reference merely states that the frequency multiplexer provides for simultaneous transmission of voice and "redundancy reduced graphical data". Laube does not define what "redundancy reduced graphical data" is and, therefore, it cannot be determined from the reference what Laube is describing. Regardless, it is clear that transmitting "redundancy reduced graphical data" is not a teaching of transmitting data "at a controlled rate".

Regarding the Examiner's argument on page 3 of the Final Office Action that "Transmission using frequency division multiplexing inherently is done at a controlled rate with a predetermined maximum data transfer rate, i.e. bandwidths of the frequency divisions," Applicant disagrees. Specifically, the term "frequency division multiplexing" denotes dividing a transmission among multiple frequencies, not limiting data transfer rate relative to a predetermined maximum data transfer rate. If the Examiner wishes to maintain his argument, Applicant respectfully requests that the Examiner present proof that frequency division multiplexing inherently includes controlling data transfer rate so as not to exceed a predetermined maximum data transfer rate.

Applicant further notes that just because data transfer rates could be controlled in Laube's frequency division multiplexing scenario, this does not mean that such control is inherent to Laube's disclosure. As described by the Federal Circuit:

> Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. *See Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991).

Scaltech Inc. v. Retec/Tetra, L.L.C., 178 F.3d 1378, 51 USPQ2d 1055 (Fed. Cir. 1999), Revising, 156 F.3d 1193, 48 USPQ2d 1037 (Fed. Cir. 1998). Furthermore, the Federal Circuit has noted:

> Under the principles of inherency, if the prior art *necessarily functions* in accordance with, or includes, the claimed limitations, it anticipates.

In the present case, Laube's system does not "necessarily function" to control data transfer rate so as not to exceed a predetermined maximum data transfer rate.

2. Claims 6-12

Applicant's independent claim 6 provides as follows (emphasis added):

> 6. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> identifying discrete data points of the generated graphical data; and
>
> *transmitting only the identified discrete data points over the communication line to a remote device such less than all of the generated graphical data is transmitted so as to not exceed a bandwidth of the communication line.*

Regarding claim 6, Laube does not teach transmitting only "discrete data points over the communication line to a remote device such less than all of the generated graphical data is transmitted so as to not exceed a bandwidth of the communication line". Applicant notes that column 5, lines 47-52 of the Laube reference, which were relied upon in the Final Office Action, do not teach transmitting any such "discrete data points". Instead, that portion of the Laube reference merely states that voice and graphical information are transmitted "within a limited bandwidth." *Laube*, column 5, lines 50-51. Laube's reference to "limited bandwidth" is a reference to the frequencies used to transmit the voice and graphical information, not the nature of the data that is transmitted. Again, we know this because Laube states that a "frequency multiplexer" is used to so transmit the voice and graphical information. *Laube*, column 5, lines 49-51.

Applicant further notes that column 7, lines 1-10 of the Laube reference, which were also relied upon in the Final Office Action, do not teach transmitting "discrete data points". Instead, that portion of the Laube reference merely states that the frequency multiplexer provides for simultaneous transmission of voice and "redundancy reduced graphical data". As noted above, Laube does not define what "redundancy reduced graphical data" is and, therefore, it cannot be determined from the reference what Laube is describing. Regardless, it is clear that Laube's identification of "redundancy reduced graphical data" is not an actual teaching of "transmitting only . . . discrete data points". A proper rejection under 35 U.S.C. § 102 requires disclosure of *each element* of the claim under consideration.

Regarding the Examiner's arguments on page 3 of the Final Office Action regarding "transmitting portions" of graphical data "at a controlled rate", Applicant notes that those limitations are contained in claim 1, not claim 6. Specifically, "transmitting portions" of graphical data "at a controlled rate" is not the same as "transmitting only the identified discrete data points over the communication line to a remote device such less than all of the generated graphical data is transmitted" as provided in claim 6. Therefore, the Examiner did not specifically respond to Applicant's points made in the previous Response as to the differences between the limitations of claim 6 and the Laube disclosure.

3. Claims 24, 26, and 27

Applicant's independent claims 24, 26, and 27 provide as follows (emphasis added):

> 24. A computer-readable memory that stores a system for sharing graphical data via a communication line, the system comprising:
>
> means for receiving voice data;
>
> means for generating graphical data representative of a user input entered into a touch-sensitive display; and
>
> means for simultaneously transmitting the voice data and information representative of the generated graphical data via the communication line such that a bandwidth of the communication line is not exceeded, wherein the means for transmitting comprise means for buffering the graphical data and *means for transmitting portions of the graphical data over the communication line at a controlled rate that does not exceed a predetermined maximum data transfer rate.*

26. A computer-readable memory that stores a system for sharing graphical data via a communication line, the system comprising:

means for receiving voice data;

means for generating graphical data representative of a user input entered into a touch-sensitive display; and

means for simultaneously transmitting the voice data and information representative of the generated graphical data via the communication line such that a bandwidth of the communication line is not exceeded, wherein the means for transmitting comprise means for identifying discrete data points of the generated graphical data and *means for transmitting only the identified discrete data points over the communication line such less than all of the generated graphical data is transmitted.*

27. A computer-readable memory that stores a system for sharing graphical data via a communication line, the system comprising:

means for receiving voice data;

means for generating graphical data representative of a user input entered into a touch-sensitive display; and

means for simultaneously transmitting the voice data and information representative of the generated graphical data via the communication line such that a bandwidth of the communication line is not exceeded, wherein the means for transmitting comprise means for identifying a reference data point, means for transmitting information that describes the reference data point via the communication line, *means for identifying coordinates of a further data point that identify the location of the further data point relative to the reference data point*, and means for transmitting the coordinates via the communication line.

Beginning with claim 24, Applicant notes that Laube at least does not teach "means for transmitting portions of the graphical data over the communication line at a

controlled rate that does not exceed a predetermined maximum data transfer rate" for reasons described above in relation to claim 1. As explained above, Laube's frequency division multiplexing does not inherently require transmitting portions of data at a controlled rate that does not exceed a predetermined maximum.

Turning to claim 26, Applicant notes that Laube at least does not teach "means for transmitting only the identified discrete data points over the communication line such less than all of the generated graphical data is transmitted" for reasons described above in relation to claim 6. As explained above, Laube does not teach transmitting any such "discrete data points". Instead, that portion of the Laube reference merely states that voice and graphical information are transmitted "within a limited bandwidth. Furthermore, Laube's identification of "redundancy reduced graphical data" is not an actual teaching of "transmitting only . . . discrete data points".

Regarding claim 27, Applicant notes that the Examiner failed to address the explicit limitations of the claim. Specifically, the Examiner states on page 8 of the Final Office Action that claim 27 is rejected "by the same rationale set forth in claims 6 and 24's rejections." Applicant notes that claim 27 clearly contains limitations that are found in neither claim 6 nor claim 24. For example, neither claim 6 nor claim 24 recites "means for identifying a reference data point", "means for transmitting information that describes the reference data point via the communication line", "means for identifying coordinates of a further data point that identify the location of the further data point relative to the reference data point", or "means for transmitting the coordinates via the communication line". The Examiner therefore has not made a prima facie case of obviousness against claim 27. In view of that, Applicant submits that the Examiner

must issue a further non-final Office Action if the Examiner wishes to maintain a prior art rejection against claim 27.

5. Claims 29-36

Applicant's independent claim 29 provides as follows (emphasis added):

> 29. An *independent* sketchpad device, comprising:
>
> a processing device;
>
> an input device that is configured to receive voice data *from a separate telephone*;
>
> a user interface with which a user can input information;
>
> an output device that is configured to transmit data; and
>
> memory that includes a sketch program that identifies user input entered via the user interface and that generates graphical data representative of the user input, and a transmission control manager that is configured to, via the output device, simultaneously transmit the voice data and information representative of the generated graphical data via a communication line such that a bandwidth of the communication line is not exceeded.

Regarding claim 29, Applicant notes that Laube at least fails to teach an "independent" sketchpad device that comprises an input device configured to receive voice data "from a separate telephone". As is clearly shown in Figure 1, Laube only anticipates an integrated phone/graphics device 10. Given that Laube's "sketchpad" is so integrated, it cannot be considered to be "independent" as is explicitly required in claim 29.

Regarding the Examiner's argument that Laube's "sketchpad device" receives voice data from separate telephones, Applicant agrees that voice data is received by Laube's device during a two-way conversation. However, it is clear that Laube's device does not "transmit" that voice data, which also required by claim 29. In other words, Applicant claims receiving voice data from a separate telephone and transmitting *that same voice data* to another telephone. Laube's device does not operate in this manner given that the "telephone" that would generate the voice data to be transmitted is actually integrated into Laube's device 10. Therefore, that "telephone" is not "separate" as required by claim 29.

III. Claim Rejections - 35 U.S.C. § 103(a)

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of

success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

In the present case, the prior art does not teach or suggest all of the claim limitations, and there is no suggestion or motivation in the prior art to modify the references to include those limitations.

A. Rejection of Claims 17-23

Claims 17-23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Laube* in view of *Lamb* (U.S. Pat. No. 6,794,571). Applicant respectfully traverses this rejection.

Applicant's independent claim 17 provides as follows (emphasis added):

> 17. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> identifying a reference data point;
>
> transmitting information that describes the reference data point via the communication line;
>
> *identifying relative coordinates of a further data point that identify the location of the further data point relative to the reference data point*; and
>
> transmitting the coordinates to another device via the communication line.

It is admitted in the Final Office Action that Laube does not teach "identifying relative coordinates of a further data point that identify the location of the further data point relative to the reference data point" and transmitting those relative coordinates. Applicant agrees and notes that this admission is proof of the patentability of claim 27 over Laube given that claim 27 contains similar limitations.

In view of the admitted shortcomings of the Laube reference, the Examiner relies upon the Lamb reference, which discloses an "absolute and relative coordinate based format description system." *Lamb*, Abstract.

As a first matter, Applicant notes that Lamb does not disclose a method for identifying relative coordinates of data points in relation to graphical data being generated by user input. Instead, Lamb describes a coordinate based format description for "geometrical objects," such as interactive multimedia, that can be located within an HTML working area. *Lamb*, column 3, lines 18-21 and lines 41-48. In other words, Lamb's format description provides an indication of the locations of multimedia objects in an HTML document. For at least that reason, Lamb does not provide a teaching or suggestion of determining and transmitting relative coordinates of graphical data being input, which is missing from Laube's disclosure.

As a second matter, Applicant notes that because Lamb does not disclose a method for describing graphical data generated by user input and intended for transmission as claimed by Applicant and disclosed by Laube, a person having ordinary skill in the art simply would not think to add Lamb's "coordinate based format description" into Laube's system. Moreover, given the differences in applications described by Laube

and Lamb, it is unclear how such addition would be accomplished and what outcome would result.

In view of at least the above, Applicant submits that claim 17 and its dependents are not obvious in view of the Laube and Lamb references.

B. Rejection of Claim 37

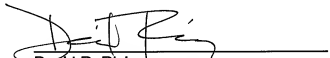
Claim 37 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Laube* as applied to claims 24 and 29, in view of *Kishimoto, et al.* ("Kishimoto," U.S. Pat. No. 4,597,101). Applicant respectfully traverses the rejection.

As identified above, Laube does not teach aspects of Applicant's claims. In that Kishimoto does not remedy the deficiencies of the Laube reference, Applicant respectfully submits that claims 37 is allowable over the Laube/Kishimoto combination for at least the same reasons that claim 29 is allowable over Laube.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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